

FAQ for the Aquatic Resource Alteration Permit (ARAP)

When is an ARAP permit required?

What is a § 401 Certification?

What is the difference between an ARAP and a §401 Certification?

Where can I view information on other applications for ARAP permits?

A federal agency said I do not need a permit for my proposed activity; do I still need a state permit (ARAP)?

Someone told me that I do not need an ARAP for my alteration; do I need to get anything in writing?

What is a “general” ARAP verses an “individual” ARAP?

I know I need an ARAP, but I don’t know if I need to apply for an “individual” or a “general.”

When do I need TVA or U.S. Army Corps of Engineers (USACE) permits in addition to an ARAP permit?

How do I transfer an ARAP permit?

My ARAP permit is expired, can I request an extension?

What is the address and contact information for the Natural Resources Section?

I have an ARAP permit, but my plans have changed. Do I need to get a new permit?

What fees do I have to pay for an ARAP permit?

Do I need an ARAP permit to take sand or gravel out of a stream?

Do I need an ARAP to install a road crossing/driveway over a stream to get to my house?

Do I need an ARAP to riprap the stream bank or reservoir?

Where can I go for technical assistance with bank stabilization?

Does cleaning up my creek banks by hand require an ARAP?

Does cleaning up my creek with a bulldozer require an ARAP?

Do I need an ARAP for a water withdrawal from a surface water source?

What are wetlands?

What is compensatory mitigation?

What is wetland mitigation banking?

Where do I purchase wetland mitigation bank credits?

Is there a stream mitigation bank that I can use for my project?

Do public agencies have to get ARAP permits?

Do farmers have to get ARAP permits?

Who do I call if I see a condition of pollution on an issued ARAP or questionable activities taking place in or around surface waters?

When is an ARAP permit required?

An Aquatic Resources Alteration Permit (ARAP) is required for projects that will physically alter surface waters of the state (streams, wetlands, lakes, etc.). Examples of alterations that may require an ARAP include dredging, bank sloping or stabilization, water withdrawals, wetland filling, and road and utility crossings of waters. If you are unsure if your alteration of surface waters will require an ARAP, contact your local [Environmental Field Office](#).

What is a § 401 Certification?

A §401 Certification is a document issued by the state that certifies that your proposed activity will comply with state water quality standards. A state certification is required when your project needs a federal permit to authorize a discharge into navigable waters (such as a §404 permit from the U.S. Army Corps of Engineers). A valid ARAP permit has the appropriate language to be used as a §401 Certification. If you have an ARAP, you already have your certification.

What is the difference between an ARAP and a §401 Certification?

The Tennessee Water Quality Control Act law requires that any activity that will alter state waters must be authorized by permit. The Federal Clean Water Act regulates dredge and fill activities in waters of the United States. Practically speaking, the same review is

done for both and the application is the same for both. If a federal permit is required, TDEC will process your application as a §401 Certification, if not it will be processed as an ARAP. If you hold a valid ARAP, you have a §401 Certification.

Where can I view information on other applications for ARAP permits?

Individual ARAP application public notices can be viewed on the divisions' website at <http://www.state.tn.us/environment/wpc/ppo/arap/>. A listing of recent ARAP and NPDES permit applications is posted every two weeks on the division's website at: <http://www.state.tn.us/environment/wpc/ppo/nois.pdf>. Instructions on how to sign up for e-mail notification of future ARAP public notices is located on the division's public participation homepage (<http://www.state.tn.us/environment/wpc/ppo/>) under the heading Public Notices.

A federal agency said I do not need a permit for my proposed activity; do I still need a state permit (ARAP)?

The federal agencies (such as the U.S. Army Corps of Engineers or the Tennessee Valley Authority) are authorized to make jurisdictional or permitting decisions on the federal level. If you are proposing an activity in or near surface waters in Tennessee, you must still contact the state or local authorities to see if any permits are required by those agencies. To inquire if your alteration of surface waters will require an ARAP, contact your local [Environmental Field Office](#).

Someone told me that I do not need an ARAP for my alteration; do I need to get anything in writing?

The requirements for an ARAP permit are set out in law and rules. To inquire if your alteration of surface waters will require an ARAP, contact the Natural Resources Section or your local [Environmental Field Office](#). It is always good practice to request official determinations in writing or by email. It is essential that you disclose all information related to the alteration to the WPC personnel so we can make the correct determination.

What is a "general" ARAP verses an "individual" ARAP?

A general permit covers alterations to state waters with a defined scope of impact and a defined set of standard permit conditions. TDEC currently has 15 [general ARAP permits](#) that were issued on June 30, 2005. Since the general permits are already issued, an applicant [applies](#) for authorization under a general ARAP. If the activity is approved, you will receive a Notice of Coverage.

An individual permit is issued to a specific person to conduct specific activities at a specific location. Individual permits involve a public notice and participation and, if the activity is approved, the permit will be written specifically for your project

I know I need an ARAP, but I don't know if I need to apply for an "individual" or a "general."

Typically, an individual ARAP is required when the proposed activity is outside of the scope of general permit coverage. The existing general permits, with their basic limitations and exclusions for coverage, are available on the Internet at <http://www.state.tn.us/environment/permits/arapgps.shtml>. If the proposed activities impact multiple stream or wetland areas in a single project, then an individual permit application may be required.

If you are unsure about what type of permit your project may require, contact your local [Environmental Field Office](#) or call toll-free 1-888-TDEC (8332). The [application form](#) is the same for both types of ARAP.

When do I need TVA or U.S. Army Corps of Engineers (USACE) permits in addition to an ARAP permit?

The majority of alterations that require an ARAP permit will also require a Section 404 and possibly a Section 10 permit from the U.S. Army Corps of Engineers. You should contact the USACE directly for a definitive answer. The [Nashville District](#) can be reached at 615-369-7500 and the [Memphis District](#) can be reached at 901-544-3005.

If your project is located within the [Tennessee River Basin](#), then it may require a 26a permit from the [Tennessee Valley Authority](#). Contact your local [TVA watershed team](#) for more information.

The state cannot make jurisdictional decisions for federal agencies. Please inform your contacts at the federal agencies whom is handling your permit application with the state, so we can better coordinate.

How do I transfer an ARAP permit?

A letter must be submitted to TDEC, Water Pollution Control, Natural Resources Section, or appropriate [Environmental Field Office](#). This letter must contain the permit number; a request to transfer the permit; the name, contact information and signature of the new permittee; and a signature from the current permittee acknowledging the transfer.

My ARAP permit is expired, can I request an extension?

Permits are limited by rule to a maximum duration of 5 years. If your existing permit was for a period of less than five years, you can request an extension by sending a letter to the Natural Resources Section, or appropriate [Environmental Field Office](#). If the five-year maximum was already granted, then you must apply for a new permit. Include the expired permit tracking number in your new application.

What is the address and contact information for the Natural Resources Section?

The mailing address is: TDEC

Division of Water Pollution Control – Natural Resources Section
7th Floor L&C Annex
401 Church Street
Nashville, TN 37243
Phone: 615-532-0645 or 1-888-891-TDEC
Fax: 615-532-0046

I have an ARAP permit, but my plans have changed. Do I need to get a new permit?

It depends on the extent of the plan changes. Contact the Natural Resources Section, or appropriate [Environmental Field Office](#) that issued your permit. Some plan changes may not affect your permit. The division can make minor modifications to existing permits, but they will need to be submitted in writing and the division must respond to you in writing. If it is a major modification in the plans, it may require a new general permit coverage or the public notice of the modification for an individual ARAP (which ever is appropriate).

What fees do I have to pay for an ARAP permit?

There is no fee for coverage under a general ARAP permit.

There is an application fee for individual ARAP permits that varies based on the size of your impact and applicant factors. The fee ranges from \$50 to \$2,500. Please see the [Guide for ARAP Permit Applicants](#) or the [division's rules](#) for more specific information. Commercial gravel dredgers are subject to an annual maintenance fee.

Do I need an ARAP permit to take sand or gravel out of a stream?

The answer can depend upon several factors.

If it is a commercial operation, that is if sales of the gravel are occurring or if it is related to another type of commercial venture (e.g., supplying gravel for roads); an ARAP permit would be required. Commercial gravel dredgers are subject to an annual maintenance fee.

If the gravel removal is for personal use, an ARAP permit is also required. However, if the dredged sand or gravel is collected from and used on a private farm or residence, and the gravel/sand bar does not have trees that are greater than two inches in diameter, then the applicant can follow the conditions of the [general permit](#) and is not required to notify the division of their activity.

Sand and Gravel dredging can be authorized under the existing [General Permit for Sand and Gravel Dredging](#), provided the specific circumstance is not excluded from general permit coverage.

Some dredging to maintain existing structures (such as culverts, bridges, dams, intakes) can be authorized under the existing [General Permit for Maintenance Activities](#). In addition, a federal 404 permit may be required if any material is put back into the stream, between the stream banks. This activity would include stockpiling gravel or placing stripped material into the stream area. Contact the [U.S. Army Corps of Engineers](#) for more information.

Do I need an ARAP to install a road crossing/driveway over a stream to get to my house?

Yes. However, if your crossing involves less than 25 feet of stream you do not have to wait for a written response to your application. Simply turn in your completed application form and follow the terms and conditions of the [General Permit for Construction and Removal for Minor Road Crossings](#).

Do I need an ARAP to riprap the stream bank or reservoir?

Yes. However, if your riprap is less than 50 linear feet (and you do not have another riprap site within 1,000 feet) you do not have to submit an application. Simply follow the terms and conditions of the [General Permit for Bank Stabilization](#).

Also, if your proposed riprap site is located within water resource development lands and waters (including flowage easements) managed by the TVA of the U. S. Army Corps of Engineers, you do not have to turn in an application form. Just follow the terms and conditions of the [General Permit for Bank Stabilization](#).

Where can I go for technical assistance with bank stabilization?

One agency that may be of some assistance is the Natural Resource Conservation Service (NRCS). According to their [website](#):

“The agency provides technical and financial assistance to conserve natural resources. While much of the technical assistance helps farmers and ranchers develop conservation systems uniquely suited to their land, the agency also

provides assistance to other private landowners and communities to reduce erosion, conserve and protect water, and address other resource concerns. See the [Tennessee NRCS Technical Resources](#) and [Tennessee NRCS Programs](#) web pages.”

There is also a publication available on-line called [A Landowners Guide to Streambank Protection and Stabilization](#). It provides a general overview of information related to bank stabilization and where you can go for more information. The publication is not up-to-date with the most current permitting requirements.

Does cleaning up my creek banks by hand require an ARAP?

No. There are many low-impact stream maintenance activities that may be performed without a state permit. These include:

- Removing downed trees and other debris by dragging or winching, as long as you don't grade or reshape the stream channel.
- Placing downed trees on stream banks to help prevent erosion
- Planting trees or other vegetation on stream banks
- Removing trees or other live vegetation from within stream channels or along stream banks by cutting, as long you don't excavate or reshape the stream channel. (Stumps and roots should be left in place to help secure the stream bank. However, clearing trees and other vegetation from stream banks is not recommended, since this plant life helps protect against erosion and provides habitat for fish and other animals.)
- Conducting minor work within the stream channel, using hand tools

Does cleaning up my creek with a bulldozer require an ARAP?

Yes. Most work done with a bulldozer in or around a creek will require some type of ARAP permit. If you are changing the shape of the creek or moving the creek flow, then it will likely require an individual permit (if it gets permitted). Not all activities are entitled to receive a permit.

Some maintenance around existing culverts may be done without submitting an application. You must follow the terms and conditions of the [General Permit for Maintenance Activities](#) and read the Notification section for specifics on this situation.

Please remember, if you are conducting grading activities of over one acre, you must file a Notice of Intent under the [Tennessee General NPDES Permit for the Discharge of Storm Water Associated with Construction Activities](#). Contact your local [Environmental Field Office](#) for more information.

If your project does not fit into the two scenarios described above, it will require a permit [application](#). If your riprap exceeds 300 linear feet of bank, then it does not qualify for general permit coverage.

Do I need an ARAP for a water withdrawal from a surface water source?

Yes in some cases. All new water withdrawals (not specifically exempt under rule [1200-4-7-.02](#)) that will or will likely alter the properties of the source stream or surface water require an individual ARAP permit. Any withdrawal that existed prior to July 25, 2000, and does not adversely alter or affect the classified uses of the source stream is exempt from these permitting requirements until there is a proposed change in the rate or volume of pumping. Withdrawals for agricultural irrigation that do not involve construction in the source stream do not require permit. Water withdrawal ARAPs must be renewed every five years. More information on water withdrawals and ARAPs is available in the [Guide to ARAP Permit Applicants](#).

Even if the withdrawal does not need a permit, the installation of any new intake structure may require authorization under the [General Permit for the Construction of Intake and Outfall Structures](#).

What are wetlands?

Wetlands are areas that are inundated or saturated by surface or ground waters at a frequency and duration sufficient enough to support (and under normal circumstance do support), a prevalence of vegetation adapted for life in saturated conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands can appear dry during periods of the year or during seasons of drought.

Wetlands are regulated as surface waters of the state and the alteration of wetlands would require an ARAP permit.

For more information on wetlands, you may refer to the [EPA wetlands page](#) or the documents on the [Tennessee wetlands page](#).

The U.S. Army Corps of Engineers maintains a list of wetland consultants for both the [Nashville District](#) and [Memphis District](#) areas.

What is compensatory mitigation?

Compensatory mitigation is the restoration, establishment, enhancement, or protection of wetlands or other aquatic resources for the purpose of compensating for unavoidable adverse impacts to those resources.

Compensatory mitigation is often required as part of the ARAP permit process as a way to achieve no “net loss of resource values” that is required by rule. It is also required by a similar federal permit processes.

The mitigation must conform to the framework set up in [rule 1200-4-7-.04](#). Additional guidance for stream mitigation is available in the [Stream Mitigation Guidelines for the State of Tennessee](#).

Federal guidance on compensatory mitigation can be viewed on the [U.S. Army Corps of Engineer's website](#).

What is wetland mitigation banking?

Any development activity that adversely affects wetlands must be authorized in advance through an ARAP permit. Permit applicants must establish that impacts to aquatic resources are unavoidable, that efforts have been made to minimize impacts by modifying development plans, and that compensation for unavoidable impacts will be provided. It is in this last instance—compensation for unavoidable impacts—that wetlands mitigation banking comes into play. If on-site mitigation is deemed not “practicable,” then off-site compensation such as banking is allowed.

Mitigation banking is designed to create, restore, and/or enhance large, ecologically important wetland tracts in advance of permitted impacts. Based on the type, size, and function of the improvements, the developer of a bank is authorized by the regulatory/resource agencies to sell a certain number of credits. These credits can be authorized by permit to be designated as compensation for specific impacts to the aquatic environment.

Where do I purchase wetland mitigation bank credits?

Before you make arrangements to purchase bank credits, be sure that the permitting agencies (TDEC and usually the U.S. Army Corps of Engineers) expect you to provide mitigation for your impact and that there are not local options for mitigation.

A list of the current wetland mitigation banks and their contact information is located on the U.S. Army Corps of Engineers websites for the [Nashville District](#) and the [Memphis District](#).

Then contact a mitigation bank whose service area covers the territory where your project is located. If credits are available for your type of project, a price must be agreed on to purchase credits from the mitigation bank. TDEC will require a proof of credit purchase as part of the issued permit. Once the bank sponsor has received your final mitigation payment, you are free and clear of any future liability and responsibility associated with your project's mitigation.

Is there a stream mitigation bank that I can use for my project?

There are currently no established stream mitigation banks in Tennessee. After a consideration of on-site and off-site mitigation opportunities, an applicant may request to use the [Tennessee Stream Mitigation Program](#). The non-profit [Tennessee Wildlife Resources Foundation](#) runs this program.

Do public agencies have to get ARAP permits?

Yes. There is a waiver of the application fee if the project is to replace, restore or repair public infrastructure or remediate damage from flooding or storm events and qualifies for federal disaster assistance ([1200-4-11-.02](#)). Watershed district projects have a reduced application fee of \$750.

Do farmers have to get ARAP permits?

The Tennessee Water Quality Control Act provides an exemption from permitting for agricultural activities or activities necessary to the operation of lands devoted to the production of agricultural products, unless those activities result in a point source discharge (T.C.A. 69-3-120 (g)). Normal activities such as plowing, seeding, cultivating, harvesting, water withdrawals for irrigation, minor drainage are exempt if they are part of an established farming or livestock management operation (and they do not result in a point source discharge ([1200-4-7-.02](#))).

To inquire if your alteration of surface waters will require an ARAP, contact your local [Environmental Field Office](#) or the Natural Resources Section.

Who do I call if I see a condition of pollution on an issued ARAP or questionable activities taking place in or around surface waters?

Contact your local [Environmental Field Office](#) and file a complaint or ask to speak to Water Pollution Control staff. The toll-free number is 1-888-891-TDEC.